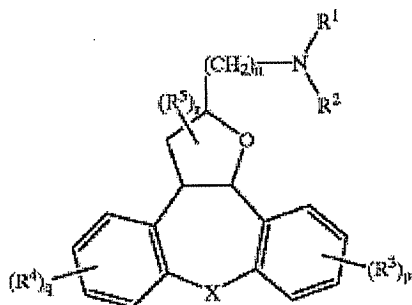


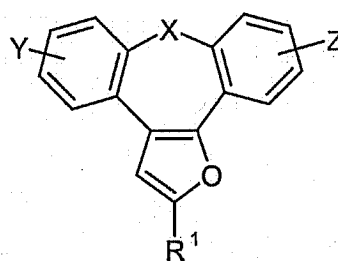
group (i.e. why there is no single general inventive concept) ***specifically describing the unique special technical feature in each group***. MPEP 1893.03(d), emphasis added.

Here, the reference cited by the Office differs from the claims at least by reciting compounds containing a tetrahydro furan component compared to Applicants recited compounds having a furan component. Note, the reference and the recited compounds contain overlapping X components which may be, for instance, CH₂, O, S, S(=O), S(=O)₂, and NR_a:

U.S. 6,288,058



Claim 1 of Instant Application



The Office has divided Applicants invention into three Groups on the basis of the X substituent. However, as argued by the Office, the reference would be equally applicable to each of the three divided Groups since the disclosed X substituents from the reference overlap the X substituents in each of the Groups. Thus, the Office has failed to divide Applicants' invention into Groups that satisfy the second part of MPEP 1893.03(d).

In other words, substituent X has nothing to do with the feature (the tetrahydro furan ring) which the Office alleges destroys Unity. The Office may have just as well divided Applicants' invention based on the alphabet or some other random feature than to base restriction on the X substituent.

Whereas the restriction requirement is improper, Applicants respectfully request that the requirement be withdrawn.

The recited genus is already being examined by the Office

A genus of compounds with substantial similarity to those recited in the pending claims is currently being examined (without restriction) in application 10/515,678. Thus, the Office has previously determined that the recited genus has Unity of Invention.

Requiring restriction in this case would represent clear inconsistency in Office practice in view of prior prosecution of the 10/515,678 application.

Election in order to fully comply with requirement


In order to fully comply with the restriction requirement, Applicants elect Group I. For election of species, Applicants elect [3-(11-Chloro-1,8-dioxo-dibenzo[e,h]azulen-2-ylmethoxy)-propyl]dimethyl-amine (disclosed on the top of page 13). All claims are readable on a method of treatment with the elected species.

Conclusion

Applicants reserve the right to file one or more divisional applications to the non-elected subject matter.

Applicants believe that no fees are due in connection with the filing of this paper other than those specifically authorized herewith. However, should any other fees be deemed necessary to effect the timely filing of this paper, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 07-1392. The Examiner is invited to contact the undersigned at (919) 483-8160, to discuss this case, if desired.

Respectfully submitted,


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Date: Nov 21 2008
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